

E-filed on: 10/21/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TELE ATLAS N.V. and TELE ATLAS
NORTH AMERICA,

Plaintiffs,

v.

NAVTEQ CORPORATION,

Defendant.

No. C-05-01673 RMW (RS)

ORDER REGARDING PRETRIAL
PREPARATION

[Re Docket No. 325]

This matter was previously scheduled for a pretrial conference on October 16, 2008. Circumstances required the court to continue the pretrial conference to November 12 and to obtain the parties' consent to try this case before Judge Seeborg in December. This order addresses the need for a clear schedule for pretrial preparation in light of these changes.

The parties each filed their motions *in limine* on October 3. The parties also lodged deposition designations and exhibit lists. NAVTEQ filed its oppositions to Tele Atlas' motions on October 9. Tele Atlas has not yet filed any oppositions to NAVTEQ's motions. Neither side has filed any objections to exhibits or deposition designations or any counter-designations.

Tele Atlas must file its oppositions to NAVTEQ's motions *in limine* by October 28, 2008, with one exception. NAVTEQ's motion seeking "to exclude evidence and arguments regarding market power" is plainly a motion for summary judgment as Tele Atlas must prove market power to

1 establish its antitrust claims. Preventing Tele Atlas from introducing any evidence or argument on
2 that subject would compel judgment as a matter of law. The deadline for filing motions for
3 summary judgment was October 5, 2007. *See* Docket No. 62 (Jun. 6, 2007). The court therefore
4 denies NAVTEQ's motion related to market power as untimely, and Tele Atlas does not need to file
5 an opposition to it.

6 By Thursday, November 6, 2008, the parties must file objections to the use of depositions
7 excerpts or other discovery responses, counter-designations, objections to the proposed verdict
8 forms, and any objections to the authenticity or admissibility of any trial exhibits. All objections
9 shall be filed in writing, along with a certification that counsel conferred with opposing counsel
10 regarding such objections. In the event a party contends that a deposition excerpt or other discovery
11 response is unacceptably incomplete, the party shall file a counter-designation listing any additional
12 deposition testimony (by page and lines) or other discovery responses it contends are necessary for a
13 complete and fair record. Any objections to the counter-designations shall be served (by fax and
14 mail) and filed the day before the Pretrial Conference (the after-hours drop box may not be used for
15 this filing).

16 At the pretrial conference, the court anticipates hearing the motions *in limine* and beginning
17 to address the jury instructions. The court is also open to addressing *Daubert* issues at this hearing.
18 As these matters may consume the entire afternoon, the court requests that the parties meet and
19 confer regarding the potential for an additional pretrial conference hearing. The parties are also to
20 meet and confer to develop procedures for handling confidential material that minimize the need to
21 close the courtroom.

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23 DATED: October 21, 2008



24 RICHARD SEEBORG
25 United States Magistrate Judge
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1 **Notice of this document has been electronically sent to:**

2 **Counsel for Tele Atlas:**

3 Melissa J Baily	melissabaily@quinnemanuel.com
4 David Eiseman	davideiseman@quinnemanuel.com
5 Robert P. Feldman	rfeldman@wsgr.com
6 Kristin Janet Madigan	kristinmadigan@quinnemanuel.com
7 William Morehead	williammorehead@quinnemanuel.com
8 Emily Christina O'Brien	emilyobrien@quinnemanuel.com

9 **Counsel for NAVTEQ:**

10 David S. Bloch	dbloch@winston.com
11 Andrew Bridges	abridges@winston.com
12 David Koropp	dkoropp@winston.com
13 George Lombardi	glombardi@winston.com
14 Kevin Joon Oh	koh@winston.com
15 Megan Elizabeth Schaefer	mschaefer@winston.com
16 Dan Webb	dwebb@winston.com

17 Counsel are responsible for distributing copies of this document to co-counsel that have not registered
18 for e-filing under the court's CM/ECF program.

19 **Dated:** 10/21/08

BK

Chambers of Judge Seeborg